

Trump's Endgame, Part I

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The world now knows a great deal about the tiny details of US presidential elections and transitions. That's because politics in the US are not normal. After all, when elections run smoothly, a victor is declared soon after the close of the polls and the usual process of changing governments is managed with little drama. In general, there is no need for a global audience to hang on each step that turns an American election result into a peaceful transfer of power.

But this year, the sitting president of the United States has refused to accept the results of the election and he has cajoled and bullied his fellow Republicans into contesting each stage of the process, even when it is clear that they will lose. It should not have been surprising that vote totals were certified on time in Michigan or that an unfounded election lawsuit was dismissed in Wisconsin or that the state legislature of Pennsylvania refused to throw out the election results or that presidential electors voted in every state for the candidates they had pledged to support. This year, however, each of these normally unremarkable moments was reported as "breaking news." News media have covered the ordinary because the extraordinary could have occurred at any minute. Previously routine steps in the US election process have caused general anxiety in the US and elsewhere because nothing about the election this year could be taken for granted.

And now we've learned that drama will continue to the very last stages of the certification process. The president's diehard supporters will (baselessly) challenge the results duly and unproblematically arrived at by the Electoral College when the new Congress assembles on 6 January at 1 pm. At that time, [Congress will officially receive and certify the votes of the Electoral College](#). According to a complex, badly written and rarely used law, the [Electoral Count Act of 1887](#), members of Congress may contest the Electoral College results by entering objections to the certification of particular states as the reports from those states are opened and read aloud. Any member of the House of Representatives acting together with any member of the Senate may initiate the challenge, individual state by individual state. When such a challenge is made, the two houses of Congress, normally convened in joint session to take a single vote on the Electoral College result, must retreat to their separate chambers for a debate that can last up to two hours for each state result that has been contested. Only if both houses vote to decertify the result will the state's votes be thrown out. What had therefore always been an unproblematic and somewhat celebratory procedure on the first day of the new Congress every four years could drag on for hours and hours and hours this week depending on how many state results are challenged.

The final outcome of these challenges is not in doubt: Joe Biden will still become president. There is no conceivable fact-based reason at this point to deny final certification of the results. Plus, the House of Representatives has a Democratic majority that will surely reject every challenge which cannot succeed unless both

houses support it. But the drama of the congressional debate will add a veneer of legitimacy to the charge that there was massive voter fraud in the November election. The drama will convey a simple message: Where there is congressional smoke, there must have been an electoral fire.

This dramatic election theater of smoke and mirrors has a primary audience of one: President Donald Trump. Trump claims he did not lose the election; he says he was cheated out of his clear victory. A challenge to Electoral College results will support that narrative, even when the challenge fails.

The false fireworks in Congress will be accompanied on 6 January by very real mass demonstrations in the streets of Washington DC. Trump supporters are expected to flock to the city in the tens of thousands as [at least four different rallies](#) have been scheduled thus far to claim that Trump in fact won the election. Many of Trump's supporters have threatened violence in the past and online chat groups are apparently already discussing ways to smuggle weapons into the District of Columbia (which has strict gun control). These online groups are planning to set up an "armed encampment" on the Mall in the center of the city. The [notorious "Proud Boys"](#) are planning to disguise themselves as counter-protestors looking for a fight. Trump has been [mobilizing them through his Twitter feed](#). They may well erupt into violence if Congress certifies that Joe Biden has won the election.

Trump has clearly been seriously discussing [the declaration of martial law](#) with his advisors for some weeks now. US law gives Trump the power under the [Insurrection Act of 1807](#) to "to call forth the militia for the purpose of suppressing [an] insurrection." Some are warning that Trump's invocation of martial law could be punished as [criminal sedition](#). But while [the military has made clear](#) that it will not participate in such a call to arms, it is also clear that they are making contingency plans for a situation in which they may be called upon to act. Military leaders worry that they will be drawn into a conflict initiated by Trump's violent supporters.

A larger mobilization

Matters are made more complicated because, while the US military is pretty certain to stay out of any direct contestation of an election, the National Guard – military wings of the state governments that are often pressed into service as part of the national US military – might be mobilized to act. In the summer, when Black Lives Matters protestors were forcibly evicted from a square near the White House by unmarked but heavily armed soldiers under the joint command of the Justice and Homeland Security departments, Trump was able to invoke a post-9/11 law that allows governors to send their National Guard troops across state lines in order to fight terrorism. Requesting help from "red state" (that is – Republican) governors, Trump was able to amass enough firepower to make the distinction between the US military and his own personally assembled armed forces moot. A later [investigation by the Washington Post](#) showed that many of those soldiers were National Guardsmen under the command of Republican governors who answered Trump's call to send reinforcements to Washington. The summer skirmish may have been a test run of a larger mobilization of red-state forces to keep Trump in power.

But why would Republican politicians participate in overturning a valid election? Because they don't believe that the election was validly conducted. The 6 January events are the culmination of a campaign that began on the night of the election when, against all of the evidence, Trump declared himself the winner. Ever since then, Trump has brought and is still bringing maximum pressure to bear on his allies to say that black is white and up is down, declaring him the victor. All those who have been involved directly in election administration – Democrats and Republicans – have said that this was a free and fair election, free of even the usual administrative hiccups that accompany such a vast and decentralized process that is a US federal election. But Trump has tried to get Republican elected officials, civil servants, judges and election supervisors to make a sharp break with history, legality and reality by throwing the election to him after the voters threw him out.

Every single step in the election, vote certification and political transition process has therefore been turned into a moment of high drama by the unrelenting attacks that Trump has made on the system through which votes are aggregated into results, certified as official and fed into the process that eventually hands the reins of power to his successor. The voices claiming that the election has been stolen are so loud and so pervasive that people who have not been paying close attention to the lack of factual support for the claim may believe them. And though many Republican state officials and many Republican-appointed federal judges have stayed the course and followed the rules both to ensure that voters could vote and to guarantee that the results would be honored, the national Republican Party and many of its Senators and Congressmen have to this day refused to publicly break with Trump and acknowledge that Biden won the election. The debate on 6 January will be yet another attempt by Trump's hardline supporters to unsettle a normal transition. They will fail in Congress, but that is not the point.

When the loser in an election refuses to acknowledge the loss, it is a stress test for democracy. When many leaders of the loser's party back him up against all of the evidence, democracy is pressed to the breaking point. When supporters of the loser collude both in creating the appearance of fraud and in manufacturing the sort of drama that would have occurred if an election had been stolen, then reality is no longer the baseline that all sides share. And when the loser's armed defenders threaten to mass in the capital at the moment when the winner is officially certified to prevent the election from being "stolen," then the political moment feels exceptionally fragile.

Since the election, polls have consistently shown that [between 70 and 80% of Republicans](#) do not believe that their candidate lost. [A more nuanced study](#) showed that many of those answers may have resulted from intense social pressure felt by Republicans to say that the election was tainted by voter fraud even though they themselves do not believe it. Still, when many people claim something is real it may eventually start to feel real. Trump may have lost the election, but he has retained the loyal backing of his party, which is poised to deny legitimacy to the election's real winner.

A victory of sorts

Against that background, it is important to recall why this should have been an election to celebrate.

Americans weathered election day better than expected, recording [the highest voter turnout in more than a century](#), despite the frequently changing rules to accommodate the pandemic and an all-out campaign by the Republican Party to [suppress the votes](#) of Democratic voters. It is also a great relief that the results were clear. Joe Biden won 306 Electoral College votes, a comfortable margin above the 270 electoral votes that he needed to win. Biden even got 7 million more direct votes nationwide than did Trump. By all conventional measures, this was not a close election. And there were no reliable reports of problems with the way that the election was conducted, the votes were counted or the election results certified. So far, all of the normal stages through which election results have been translated into a peaceful transfer of power have proceeded from step to step, though with an attempt by Trump's supporters to disrupt at every point. But they have not succeeded.

So how can Trump possibly believe he won? Because in some ways, Trump in fact emerged victorious from the 2020 election.

Four years after American voters first awarded the presidency to Trump not really knowing how he would govern, Trump won [10 million more votes](#) in 2020 than in 2016. In fact, Trump actually won more votes in 2020 than any other presidential candidate in the history of the US – except for Joe Biden who competed against him in the same election. If Trump were running against his own 2016 results, then he won handily. He governed for four years by smashing every norm in sight and yet he convinced 10 million more Americans to vote for him this time than voted for him the first time around. That looks like a victory of sorts.

Of course, the United States doesn't decide a presidential election in favor of the candidate who beat his own prior record. The US doesn't even decide an election in favor of the candidate who won the most votes in the current election. [In 2016, Trump actually lost](#) the election by nearly 3 million votes overall, and yet he won in the Electoral College, the constitutionally mandated distinctive way of choosing a president by adding up the results of 50 different mostly winner-take-all elections in the 50 states (plus the District of Columbia). Like qualified majority voting in the European Union, the American Electoral College ensures that a president's support is not concentrated only in the large states or most populous states, but is spread out throughout the governed territory. Despite losing the popular vote in 2016, Trump won in the Electoral College so he won the presidency. Not once during his presidency, however, has he ever [had majority support](#). But his support has been rock-solid, unmoved by any of the unconstitutional stunts he has pulled along the way.

This time, however, Trump's loss in the popular vote didn't translate into the same Electoral College math. He won in 2016 by narrow margins in the states that put

him over the top to victory which is why he could lose the popular vote and yet win in the Electoral College. But Biden's margins in the states that put him over the top in the Electoral College were even narrower. In 2016, [107,000 Trump voters would have had to switch to Clinton](#) in the battleground states of Pennsylvania, Michigan and Wisconsin in order for her to win. But if a mere [42,921 voters across Arizona, Georgia and Wisconsin](#) switched from Biden to Trump in 2020, Trump would have tied Biden in the Electoral College vote, throwing the determination of the presidency to the House of Representatives which, under the [voting rules specified in the Constitution](#) in which each state delegation gets one vote, would have a solid Republican majority. Trump thus came closer to winning in 2020 against Biden than Hillary Clinton came to winning against Trump in 2016. This, too, has contributed to Trump's rage against the election. It also explains his effort to push the decision to Congress by creating the appearance of voting chaos so that his fate would be decided by his partisan loyalists there.

Publicly announcing multiple times per day on Twitter he was robbed of victory, Trump has been attempting to disqualify valid votes, pressing state legislatures to substitute their judgment for the voters' choices and looking for every way to hang onto power. Not only did Trump win 10 million more votes than last time, but less than 50,000 votes out of the more than 120 million votes cast decided his fate. He refuses to consider that a loss. So Trump rages on.

This week – 6 January – the very last stage of certification (save for the inauguration itself) will be played out on the floor of the US Congress. Trump has mustered his political forces in Congress to defend him from defeat and he will muster his die-hard and potentially heavily armed supporters to create an atmosphere of menace in the Washington while Congress performs its duty, made non-routine as all else about this election by the threat of partisan warfare. These are indeed fragile times for American democracy and we can only hope that the threat can be tamped down by those who honor their constitutional oaths of office.

Even if he loses yet again as the election result is finally certified, Trump is president until 20 January. He can do a lot more damage between now and when he leaves office. That's the subject of Trump's Endgame, Part II.

